



CITY OF HAYWARD AGENDA REPORT

Planning Commission
Meeting Date 11/18/99
Agenda Item 2

TO: PLANNING COMMISSION

FROM: Richard E. Patenaude, Associate Planner

SUBJECT: Use Permit Application No. 99-160-26 – Everardo Jimenez (Applicant),
Everardo Jimenez, Rodolfo Jimenez and F. Javier Jimenez (Owners):
Request for Off-Sale of Alcoholic Beverages at Jimenez Supermarket.

The project location is 28150 Mission Boulevard, on the southeast corner of Hancock Street in the General Commercial (CG) District.

RECOMMENDATION:

Staff recommends that the Planning Commission approve the application to permit off-sale of alcoholic beverages as an accessory use to the Jimenez Supermarket.

DISCUSSION:

Setting

The 35,000-square-foot property is developed with a 7,933-square-foot market and accessory bakery, taqueria, and check-cashing functions. The balance of the site is a 35-stall parking lot that serves the business (See Plan). The site contains 154 feet of frontage on the east side of Mission Boulevard and 194 feet of frontage on the south side of Hancock Street. There are no major site modifications proposed with this application. The applicant will maintain the existing driveway curb cuts; there is one on each frontage.

Adjacent Land Use and Zoning

North - Vacant property, zoned General Commercial (CG) District; Pinecrest Apartments, zoned High-Density Residential (RH) District
East - Condominiums, zoned High-Density Residential (RH) District
South - Meeks RV Center (vacant), zoned General Commercial (CG) District
West - (across Mission Blvd.) Mixed commercial, zoned General Commercial (CG) District

Proposal

The applicant, Everardo Jimenez, operates the existing Jimenez Supermarket. Mr. Jimenez has made a request to sell alcoholic beverages from the 7,933-square-foot market. A conditional use permit is required for all markets less than 10,000 square feet in area to operate as an off-sale liquor establishment. The license being requested by Mr. Jimenez is a transfer of an existing off-sale license from Bazarak Liquor Store, located at 28293 Mission Boulevard at the northwest corner of Monticello Street, 530 feet to the southwest of the market.

In addition, there is an over-concentration of liquor establishments in the census tract wherein Jimenez Supermarket is located. The over-concentration regulations statutorily prohibit the State Department of Alcoholic Beverage Control (ABC) to license a new liquor establishment in this area unless the governing body determines that the public convenience or necessity would be served by the issuance of the license. The City Council has authorized the Planning Director to make this determination. In this instance, the Planning Director is of the opinion that the public convenience or necessity would be served by sales of alcoholic beverages at the subject location since this is a transfer of an existing license within the census tract. There will be no net increase in the number of licenses and the transfer will result in the use of the license in an establishment where the sale of alcohol is accessory rather than primary.

The recommended conditions of approval are typical for a request of this type. In addition, the applicant will be required to upgrade the parking lot and perimeter landscaping, upgrade the existing trash enclosure, and repair the existing chain link fences.

Police Department

The Police Department supports the application to allow the market to become an off-sale liquor establishment with the approval of the recommended conditions.

Public Response

Staff has received a letter in support of the application from CommPre (*Community Prevention of Alcohol-Related Problems*) with certain recommendations regarding advertising, the type of beverages offered for sale, the placement of beverages within the store, and employee training; these recommendations have been incorporated as conditions of approval. The concern of CommPre is to maintain the family atmosphere of the store and to reduce the exposure of youth to alcohol.

ENVIRONMENTAL REVIEW:

The proposal qualifies for a Categorical Exemption under Section 15031 (Existing Facilities) Class 1 (Operation of a private structure) of the California Environmental Quality Act (CEQA) Guidelines.

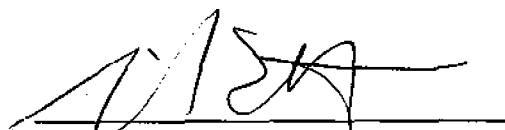
PUBLIC NOTICE:

On September 20, 1999, a Notice of Receipt of Application was mailed to every property owner, business and resident within 300 feet of the property as noted on the latest assessor's records, and appropriate public agencies and neighborhood groups; staff has received no response. On November 8, 1999, a Notice of Public Hearing was mailed to the same.

CONCLUSION:

Staff supports the approval of the conditional use permit. In addition, staff believes that the public convenience or necessity would be served by transferring the subject off-sales license; the transfer would be from an establishment at which the sale of alcohol is primary to one from which it is accessory, alleviating the over-concentration of such within the subject census tract.

Prepared by:



Richard E. Patenaude
Associate Planner

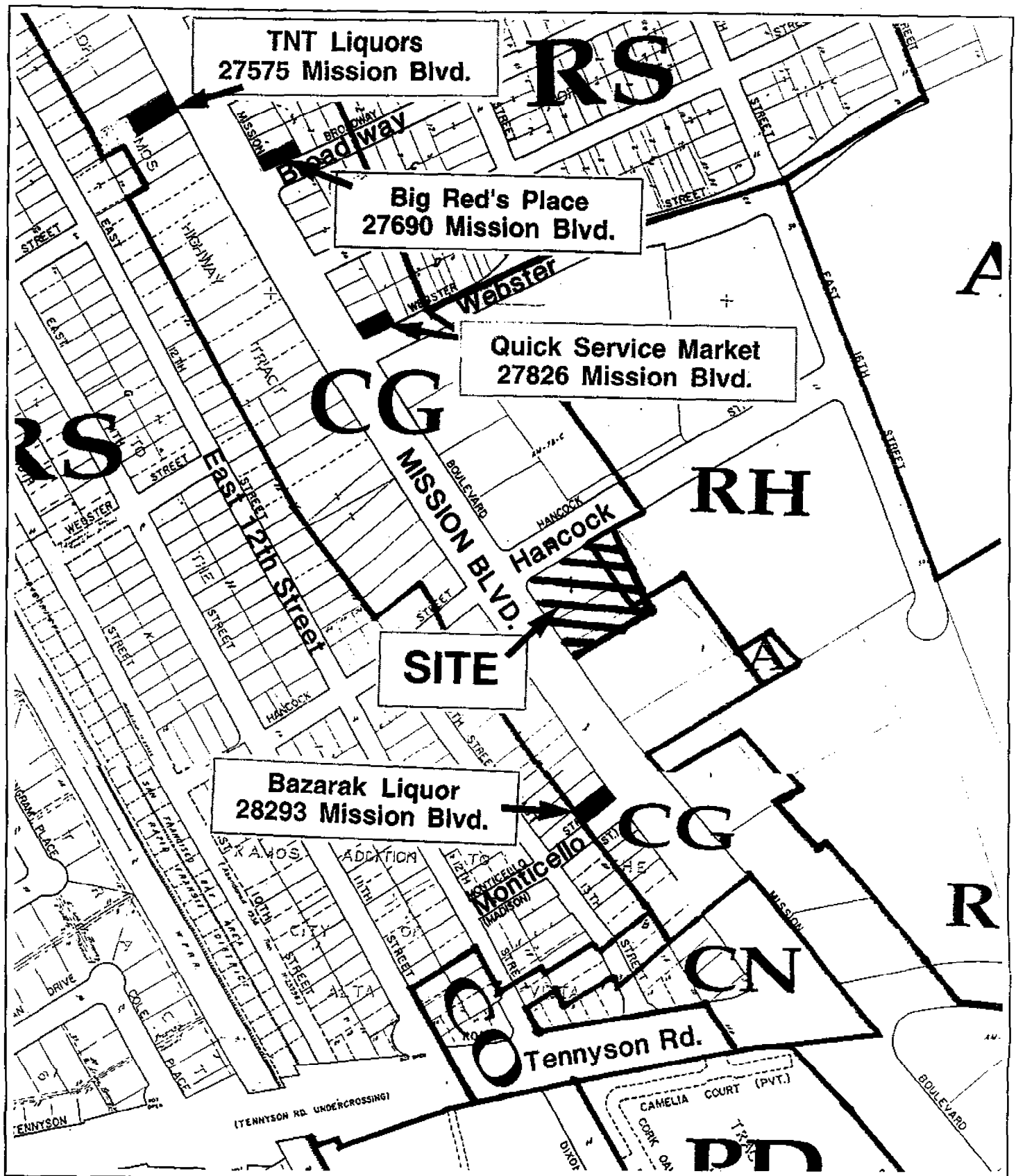
Recommended by:



Cathy Woodbury, AICP/ASLA
Principal Planner/Landscape Architect

ATTACHMENTS:

- A. Area Map
- B. Letter in Support from CommPre dated October 26, 1999
- C. Findings for Approval of Use Permit
- D. Conditions of Approval
Plan



ZONING/AREA MAP ■ UP 99-160-26

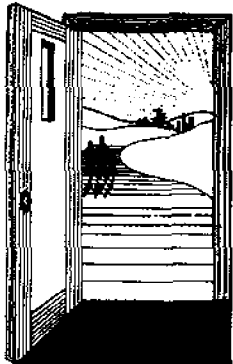
Everado Jimenez (Applicant)

E. Jimenez, Rodolfo Jimenez, F. Javier Jimenez (Owner)

28150 Mission Blvd.

ATTACHMENT A

COMMPRE



October 26, 1999

Richard Patenaude, Associate Planner
Planning Division
777 B Street
Hayward, CA 94541

22652 Second Street
Hayward, CA 94541
(510) 247-8207
(510) 247-8210 fax



A program of
Horizon Services, Inc.

Dear Mr. Patenaude:

I am writing in regard to the Conditional Use Permit application for an alcohol license transfer from Bazarak Liquor to Jimenez Supermarket. We would support the transfer with conditions. Our aim is to maintain the family atmosphere of the store as much as possible, and to reduce the exposure of youth to alcohol as much as possible. We believe the following conditions will mitigate the negative effects of adding alcohol sales where children frequent:

- No advertising of alcohol on store windows.
- No sale of single serving alcoholic beverages (i.e. 16, 24, 32, 40 oz cans and bottles of products including beer, malt liquor, and fortified wine)
- All current and future employees must attend CommPre's state certified Responsible Beverage Service Training (RBS).
- Place beer and wine on the far right side of the store with distilled spirits.

Please feel free to call me for further explanation or clarification.

Sincerely,

Keisha Tyler
Prevention Specialist

ATTACHMENT B

FINDINGS FOR APPROVAL
Use Permit Application No. 99-160-26
Everardo Jimenez (Applicant)
Everardo Jimenez, Rodolfo Jimenez and F. Javier Jimenez (Owners)

Based on the staff report and the public hearing record:

1. The Planning Commission finds that the Categorical Exemption is complete and final in accordance with the California Environmental Quality Act Guidelines and reflects the independent judgment of the Commission based on the fact that the project conforms to Section 15301 of CEQA.
2. The transfer of the off-sales liquor license to the subject establishment is desirable for the public convenience or welfare since it has the potential to alleviate the over-concentration of liquor establishments in the subject census tract.
3. The transfer of the off-sales liquor license to the subject establishment will not impair the character and integrity of the General Commercial (CG) District in that the transfer of the liquor license to the subject establishment is in character with the surrounding development and uses, and will not conflict with the established purpose of the CG District.
4. The transfer of the off-sale liquor license to the subject establishment will not be detrimental to the public health, safety, or general welfare as evidenced by the fact that additional opportunities to purchase alcoholic beverages to be consumed in public are not provided, and this transfer has the potential to alleviate the over-concentration of liquor establishments in the subject census tract in conformance with the intent of the Hayward General Plan land use designation and existing zoning districts.
5. The transfer of the off-sale liquor license to the subject establishment is in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with adjacent commercial and residential activities.

CONDITIONS OF APPROVAL
Use Permit Application No. 99-160-26
Everardo Jimenez (Applicant)
Everardo Jimenez, Rodolfo Jimenez and F. Javier Jimenez (Owners)

General

1. Use Permit Application No. 99-160-26, for off-sale alcoholic beverage sales at 28150 Mission Boulevard, shall be subject to the description made by the staff report, plans approved by the Planning Commission on November 18, 1999, and these conditions of approval. Any modification to the approved plans shall require review and approval by the Planning Director.
2. This permit is approved on the understanding that there will be a license transfer from Arman Khodadadfar, *dba* Bazarak, 28293 Mission Boulevard, to Everardo Jimenez, *dba* Jimenez Supermarket, 28150 Mission Boulevard. Alcoholic beverages shall not be offered for sale at the subject premises until such time this transfer is accomplished. Prior to the sale of any alcoholic beverages, all pertinent conditions of approval and all improvements shall also be completed to the satisfaction of the Planning Director. Should the transfer of the license not be accomplished within three months of the approval of this permit, this permit shall be deemed void.
3. Not more than 5 percent of the floor area of the market shall be devoted to the sale, display and storage of alcoholic beverages.
4. Hours of operation of the market shall not extend beyond 8:00 a.m. to 8:00 p.m. at any time alcoholic beverages are offered for sale.
5. No advertising for alcoholic beverages shall be visible from the exterior of the store.
6. There shall be no sale of single-serving containers of alcoholic beverages (i.e. 16-, 24-, 32- or 40-ounce cans and bottles of products including beer, malt liquor and fortified wine).
7. The permittee shall provide and maintain exterior and interior lighting that is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department while inside the premises.

8. The permittee shall prominently post a sign on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant to Chapter 4 of the Hayward Municipal Code.
9. The permittee shall discourage patrons and visitors from loitering and consuming alcoholic beverages in adjacent public rights-of-way and parking areas and in front of adjacent properties.
10. The permittee and all employees engaged in the sale of alcoholic beverages shall attend state-certified Responsible Beverage Service Training within six months of approval of this permit. Any employee hired after this permit is approved shall attend such Training within six months of his/her date of hire.
11. The property owner/applicant shall maintain in good repair all building exteriors, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
12. Locks and addressing shall be provided in accordance with the requirements of the City of Hayward Security Ordinance.
13. Any public telephone(s) shall be located within the interior of the building, unless otherwise authorized by the Planning Director.
14. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes.
15. Independent grounds for permit revocation shall include commission by the permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the scene of the commission or where there is a direct correlation between the permitted establishment and the criminal offense; and 2) such criminal offense is found to be detrimental to the public health, safety or general welfare.
16. Violation of any of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.

Site Improvements

17. Prior to the sale of any alcoholic beverages at this location, parking stalls shall be restriped and any compact or handicapped stalls shall be clearly marked. The parking areas shall be paved to the satisfaction of the City Engineer.
18. Prior to the sale of any alcoholic beverages at this location, the property owner/applicant shall provide a trash and recyclables enclosure(s) that conforms to

City standards, including the retrofit of the existing enclosure, if necessary, including the following:

- a. A 6-inch wide curb or parking bumpers shall be provided along the interior perimeter of the enclosure to protect the walls from damage by the dumpster. A 6-inch wide parking bumper, at least three feet long, shall also be placed between the dumpster(s) and any recycling container(s). A minimum space of 12 inches must be maintained between the dumpster(s) and the walls of the enclosure and any recycling cart(s) to allow for the maneuvering of the dumpster(s).
 - b. All exterior trash enclosures, including the existing enclosure, shall be covered. The Planning Director shall approve the final design before occupancy. No other area shall drain into the trash enclosure.
 - c. The applicant shall provide for adequate on-site storage containers for recyclables within the buildings, including paper, glass/plastic/metal beverage containers, and other recyclables where generated.
19. Prior to the sale of any alcoholic beverages, the existing chain link fences and slats shall be repaired, where necessary, and maintained in good condition. All new fencing shall require the approval of the Planning Director prior to installation. Any new fencing that is in direct view of Mission Boulevard shall consist of wrought iron or other decorative metal.
20. Prior to the sale of any alcoholic beverages, the buckled sidewalk along Hancock Street shall be repaired to the satisfaction of the Public Works Director.
21. Prior to the sale of any alcoholic beverages, the existing storage area built over the covered walkway shall be removed. All new outdoor storage areas shall require the approval of the Planning Director prior to installation. Such storage areas shall be screened with decorative materials.
22. Prior to the sale of any alcoholic beverages, detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's *Water Efficient Landscape Ordinance*.
- a. One 24" box street tree is required for every 20 – 40 lineal feet of frontage. Trees shall be planted to fill vacancies in the street tree pattern, and to replace any declining or dead trees. Trees shall be planted according to the City Standard Detail SD-122.
 1. Replace the three *Platanus acerifolia* exhibiting poor growth with three 24-inch box *Platanus acerifolia* 'Bloodgood' or 'Yarwood.'
 2. Remove street stakes on all existing *Platanus acerifolia*.
 - b. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6" high class "B" Portland Cement concrete curb.
 - c. The parking lot shall include one 15-gallon tree for every six parking stalls. Parking lot trees shall be planted in tree wells or landscape medians located within the parking area. The existing central parking row shall be capped with a

landscaped median. All tree wells and medians shall be a minimum of 5' wide measured inside the curbs.

- d. The parking lot shall be screened with shrubs that will provide a continuous 30" high hedge along the Mission Boulevard frontage.
 1. Fill in the gaps between existing shrubs and replace *Pittosporum tobira* 'Wheeler's Dwarf' with *Xylosma congestum* 'Compacta.'
 2. Replace the *Raphiolepis indica* that exhibits poor growth at the Mission Boulevard frontage.
 - e. Provide groundcover in all planting areas. Fill in areas where the groundcover has declined. Provide a 2" layer of bark mulch in all planting areas.
 - f. Repair the concrete planter curb at the entrance from Mission Boulevard.
 - g. The parking lot and the fenced storage area/trash enclosure shall be screened with mounding shrubs that will provide a continuous 30" high hedge along the Hancock Street frontage.
 - h. All above ground utilities and mechanical equipment shall be screened from the street with shrubs.
 - i. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.
 - j. Provide an automatic irrigation system if one is not in place. Check any existing irrigation system to see that all planting areas have full coverage. Expand any existing system to include coverage of any new planting areas.
 - k. A tree removal permit is required prior to the removal of any tree in accordance with the *Tree Preservation Ordinance*. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
 - l. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy.
23. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.